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PLANNING & DEVELOPMENT SERVICES DEPARTMENT REPORT

HEARING DATE: April 11, 2002

TO: Orange County Zoning Administrator

FROM: Current Planning Services Division

SUBJECT: Planning Application PA02-0027 for a variance and use permit.

LOCATION: 30571 Belha Way, Silverado Canyon.

APPLICANT: James & Andrea Dietze

STAFF CONTACT: James Thue, Project Manager
Phone: (714) 834-2179 FAX: (714) 834-4652

SYNOPSIS: The applicant seeks to construct a detached two-car garage with a retaining wall. Staff recommends Zoning Administrator approval of PA 02-0027 subject to findings and conditions.

BACKGROUND:

The subject site is zoned "A1, General Agricultural" District and is subject to the Silverado-Modjeska Specific Plan. The property is designated as "Existing Village" as described within the Silverado-Modjeska Specific Plan. The site is bordered by a steep hill to the north and by Silverado Creek to the south.

The existing residence was built 12 feet from the front property line because of steep topography located on the rear half of the property. No variance was required for encroachment into the front setback as the residence was built before zoning requirements were imposed in the area. Variance VA 81-74A, issued in 1981, permitted a 380 square foot addition constructed in 1982, which consisted of a second story bedroom addition, a study room, and staircase. The variance permitted the residence to expand to within 9 feet of the front property line instead of the required 20 feet from the property line.

This planning application includes a variance request in order to construct a garage in the front setback area and a use permit to allow for the construction of a retaining wall in the front setback area.

SURROUNDING LAND USE:

All properties in the surrounding area are zoned “A1, General Agricultural” District. The subject site is zoned “A1, General Agricultural” District and borders the “FP-2 Flood Plain” District. Properties to the south located immediately adjacent to Silverado Creek are zoned “A1 (FP2) Flood Plain” District.

PUBLIC NOTICE AND COMMENTS:

A Notice of Hearing was mailed and posted as required by State law. The planning application was sent to the Inter-Canyon League. Staff has received no comments from residents or community organizations regarding this proposal.

CEQA COMPLIANCE:

Negative Declaration No. PA02002 has been prepared and was posted for public review on 3/15/02. It is attached for your consideration and must be approved prior to project approval with a finding that it is adequate to satisfy the requirements of CEQA. A finding to that effect is in Attachment A.

DISCUSSION/ANALYSIS:

The applicant desires to construct a new detached two-car garage and retaining wall. The garage will measure 30 feet long by 20 feet wide with a maximum height of 12 feet. This Planning Application includes a variance request to allow the garage be located 10 feet from the front property line instead of the required 20 ft. front setback required for the A1 District. The garage will be located 40 feet from the bank of Silverado Creek. If approved, the variance will not constitute special privileges for the applicant. The home and the proposed garage will be located on the southern portion of the property because of the steep topography that exists on the northern portion. Therefore, the steep topography creates special circumstances for the property.

The proposal will require 115 cubic yards of soil to be removed and the construction of a retaining wall to be placed against the carved portion of the hillside. The site where the grading will be done is covered with grass and some small trees. The retaining wall will range in height from 1 to 7 feet. The block wall will measure approximately 73 feet long and will be constructed starting on the property line and will wrap around the back of the garage (detailed building plans are included in Attachment D). Zoning Code Section 7-9-137.5(b) states that the maximum height for walls within the required front setback area is 3.5 feet. The proposed wall will range from one to 5 feet in the required 20 ft. front setback area and therefore a Use Permit is required. Before the Zoning Administrator can approve this request for the proposed walls in the front setback area, Zoning Code Section 7-9-137.5(f) requires the following special findings be made:

- 1) The height and location of the fence or wall as proposed will not result in or create a traffic hazard.
- 2) The location, size, design and other characteristics of the fence or wall will not create conditions or situations that may be objectionable, detrimental or incompatible with other permitted uses in the vicinity.

Staff believes that these findings can be made. Other homes in the area have constructed walls in the required setback areas for the construction of their homes due to the hillside building sites and therefore the proposed walls will be compatible with existing uses in the area.

CONCLUSION OR SUMMARY:

Topography in the area creates special circumstances in which variances and/or use permits are at times necessary for the construction of homes. Alternative development standards have been permitted in the area and therefore zoning standards have been deviated from in order to build homes in the Silverado Canyon area. Staff recommends approval of this planning application subject to the finding and conditions of approval recommended for this project as stated in Attachment A.

RECOMMENDED ACTION:

- a. Receive staff presentation and public testimony as appropriate; and,
- b. Approve Planning Application PA 02-0027 subject to the attached Findings and Conditions of Approval.

Respectfully submitted

Chad G. Brown, Section Chief
CPSD/Site Planning Section

ATTACHMENTS:

- Attachment A. Recommended Findings and Conditions of Approval
- Attachment B. Site Photos
- Attachment C. Negative Declaration
- Attachment D. Project Plans

APPEAL PROCEDURE:

Any interested person may appeal the decision of the Zoning Administrator on this permit to the Orange County Planning Commission within 15 calendar days of the decision upon submittal of required documents and a filing fee of \$245.00 filed at the Development Processing Center, 300 N. Flower St., Santa Ana.